# Before the Federal Communications Commission Washington, D.C. 20554

In the Matter of	)	
	)	
Alan Field	)	File No.: EB-FIELDWR-14-00015831
Antenna Structure Owner	)	
	)	Citation No.: C201432900005
Los Angeles California	ĺ	

#### CITATION AND ORDER

### Failure to Obtain Antenna Structure Registration

Adopted: July 23, 2014 Released: July 24, 2014

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

### I. INTRODUCTION

- 1. This is an official **CITATION AND ORDER** (Citation) issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Communications Act or Act), to Alan Field, owner of the antenna structure (Antenna Structure) located at 11231 S. La Cienega Blvd., Los Angeles, California. Specifically, Mr. Field is being cited for failing to register with the Federal Communications Commission (Commission) an Antenna Structure that requires notice to the Federal Aviation Administration (FAA) in violation of Section 17.4(a) of the Commission's rules (Rules).
- 2. <u>Notice of Duty to Comply With Laws</u>: Mr. Field should take immediate steps to come into compliance with the Rules, and to avoid any recurrence of the misconduct, specifically, failing to register the Antenna Structure with the Commission. Mr. Field is hereby on notice that if he subsequently engages in any conduct of the type described in this Citation, including any violation of Section 17.4(a) of the Rules, he may be subject to civil and criminal penalties, including but not limited to substantial monetary fines (forfeitures). Such forfeitures may be based on both the conduct that led to this Citation and the conduct following it.<sup>3</sup>
- 3. <u>Your Response Required</u>: Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, 4 we also direct Mr. Field to respond in writing, within thirty (30) calendar days after the release date

<sup>&</sup>lt;sup>1</sup> 47 U.S.C. § 503(b)(5). Section 503(b)(5) of the Act provides that a Citation is not required in the case of violations of Section 303(q) of the Act, 47 U.S.C. § 303(q), if the person/entity involved is a nonlicensee tower owner who has previously received notice of the obligations imposed by Section 303(q) from the Commission or the permittee or licensee who uses that tower. In this case, however, we are providing a Citation to Mr. Field because such notice may not have been previously provided. *See North Chapel Investments*, Citation and Order, 27 FCC Rcd 4813 (Enf. Bur. 2012) (citation issued to nonlicensee antenna structure owner which may not have had notice of its obligations concerning its antenna structures).

<sup>&</sup>lt;sup>2</sup> 47 C.F.R. §§ 17.4(a).

<sup>&</sup>lt;sup>3</sup> See 47 U.S.C § 503(b)(5). See also S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in the conduct for which the citation of violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently but also for the conduct for which the citation was originally sent.") (emphasis added).

<sup>&</sup>lt;sup>4</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

of this Citation, and signed under penalty of perjury, with descriptions of the specific action(s) taken to preclude recurrence of the violations, and also a timeline for completion of any correction action(s).

## II. BACKGROUND

- 4. On December 4, 2013, in response to a complaint, an agent of the Enforcement Bureau's Los Angeles Office (Los Angeles Office) observed an antenna structure with an overall height of approximately 100 feet (30 meters) located at 11231 S. La Cienega Blvd., Los Angeles, California and near the Los Angeles International Airport (approximate geographic coordinates of 33° 55' 58" north latitude, 118° 22' 15" west longitude). The agent observed that there was no Antenna Structure Registration number posted at or near the structure. The agent also observed that the structure did not have painting or obstruction lighting.
- 5. Based upon the Antenna Structure's location and height, particularly given its proximity to both Los Angeles International Airport and Jack Northrop Field/Hawthorne Municipal Airport, the Los Angeles Office determined that the Antenna Structure required FAA notification and FCC registration. Finding that the Antenna Structure was not registered with the Commission and that no notice to airmen (NOTAM) had been issued for the Antenna Structure, the Los Angeles Office asked the FAA to issue a NOTAM for the structure, and has continued to renew the NOTAM.<sup>5</sup> Although the Antenna Structure is apparently not being presently used for radio transmissions, the Antenna Structure still supports two microwave transmission antennas.<sup>6</sup> A Letter of Inquiry concerning the lack of the antenna structure registration was sent from the Los Angeles Office to Mr. Field, but no response was received.<sup>7</sup>

#### III. APPLICABLE LAW AND VIOLATIONS

6. Section 17.4(a) of the Rules mandates that an antenna structure that requires notice to the FAA must be registered with the Commission. Section 17.7 of the Rules specifies that "[a] notification to the FAA is required, except as set forth in 17.14, for any of the following construction or altercation: (a) Any construction or alteration of more than 60.96 meters (200 feet) in height above ground level at its site. (b) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes: (1) 100 to 1 for horizontal distance of 6.10 kilometers (20,000 feet) from the nearest point of the nearest runway of each airport specified in paragraph (d) of this section with at least one runway more than 0.98 kilometers (3,200 feet) in actual length, excluding heliports. (2) 50 to 1 for a horizontal distance of 3.05 kilometers (10,000 feet) from the nearest point of the nearest runway of each airport specified in paragraph (d) of this section with its longest runway no more than 0.98 kilometers (3,200 feet) in actual length, excluding heliports. (3) 25 to 1 for a horizontal distance of

<sup>&</sup>lt;sup>5</sup> NOTAMs alert aircraft pilots of potential hazards, including antenna structure light outages, which could affect flight safety. *See* Section 17.48 of the Rules, 47 C.F.R. § 17.48. We caution Mr. Field that, as the antenna structure owner, he must report immediately by telephone or telegraph to the nearest Flight Service Station or office of the FAA any observed or otherwise known extinguishment or improper functioning of any required top steady burning light or any required flashing obstruction light, regardless of its position on the antenna structure, not corrected within 30 minutes.

<sup>&</sup>lt;sup>6</sup> If the Antenna Structure is no longer being used for the transmission of radio energy, Mr. Field is required to maintain any required painting and lighting requirements assigned to the structure until the structure is dismantled. *See* 47 U.S.C. § 303(q).

<sup>&</sup>lt;sup>7</sup> See Alan Field, Letter of Inquiry (Dec. 19, 2013) (on file in EB-FIELDWR-14-00015831).

<sup>&</sup>lt;sup>8</sup> 47 C.F.R. § 17.4(a).

- 1.52 kilometers (5,000 feet) from the nearest point of the nearest landing and takeoff area of each heliport specified in paragraph (d) of this section." <sup>9</sup>
- 7. The record in this case shows that, on December 4, 2013, a Los Angeles agent observed the Antenna Structure and determined that, given the Antenna Structure's height and proximity to two airports, it required notice to the FAA. Subsequent investigation revealed that no notification to the FAA had apparently occurred and consequently no air safety study had been conducted or issued for the Antenna Structure, nor had the structure been registered with the Commission. Based on the foregoing evidence, we find that Mr. Field violated Section 17.4(a) of the Rules.<sup>10</sup>

### IV. REQUEST FOR INFORMATION

- 8. Pursuant to Sections 4(i), 4(j), and 403 of the Act,<sup>11</sup> Mr. Field is directed to confirm in writing that he has taken the necessary measures and made the corrections to ensure that he does not continue to violate the rules discussed above, and provide the information requested below within thirty (30) calendar days after the release date of this Citation. A failure to respond in writing, or the provision of an inadequate, incomplete, or misleading response, may subject Mr. Field to additional sanctions.
  - i. Provide the record of FAA notification and FCC antenna structure registration.
  - ii. Provide the plan for installing a lighting system for the Antenna Structure and for painting the Antenna Structure if required to do so by FAA Aeronautical Determination. Include a time-frame for such installation and painting.
  - iii. Provide the plan for requesting an FAA NOTAM on a timely basis (to ensure air navigation safety) until the tower is lit and painted. Include a time-frame for such requests.
  - iv. If it is believed that painting and lighting of the Antenna Structure is not required, provide a copy of the FAA Determination of No Aeronautical Hazard with those specifications.

### V. RESPONDING TO THIS CITATION

- 9. In addition to the required written information described in paragraphs 3 and 8, above, Mr. Field may, if he so chooses, respond to this Citation—challenging the factual and legal findings herein—within thirty (30) calendar days from the release date of this Citation either through (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to your place of business.
- 10. If you would like to arrange a teleconference or personal interview, please contact Charles A. Cooper at (562) 860-7474. The nearest Commission Field Office is located in Cerritos, California. Such teleconference or interview must take place within thirty (30) calendar days of the date of this Citation. If you would like to submit a written response, including any supporting documentation,

<sup>&</sup>lt;sup>9</sup> 47 C.F.R. § 17.7.

<sup>&</sup>lt;sup>10</sup> 47 C.F.R. §§ 17.4(a).

<sup>&</sup>lt;sup>11</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

<u>you</u> must send the response within thirty (30) calendar days of the date of this Citation to the contact and address provided in paragraph 11, below.

11. All written communications, including the information requested in paragraphs 3 and 8, above, should be provided to the address below.

Federal Communications Commission Los Angeles District Office 18000 Studebaker Road, Suite 660 Cerritos, California 90703

Re: EB-FIELDWR-14-00015831

12. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, and include as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) business days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the FCC's Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations: 202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format): 202-418-0531 (voice), 202-418-7365 (tty).

- 13. Please be advised that it is a violation of Section 1.17 of the Rules (47 C.F.R. § 1.17) for any person or a staff member of that person to make any false or misleading written or oral statement of fact. Specifically, no person shall:
  - (1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and
  - (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.<sup>12</sup>
- 14. Further, the knowing and willful making of any false statement, or the concealment of any material fact, in reply to this Citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.
- 15. If you violate Section 1.17 of the Rules or the criminal statute referenced above, you may be subject to further legal action, including monetary fines pursuant to Section 503 of the Act.<sup>13</sup>
- 16. Under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you

<sup>&</sup>lt;sup>12</sup> 47 C.F.R. § 1.17.

<sup>&</sup>lt;sup>13</sup> 47 U.S.C. § 503.

disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Act and the Rules.

## VI. FUTURE VIOLATIONS

17. If, after receipt of this Citation, Mr. Field again violates Section 17.4(a) of the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures not to exceed \$16,000 for each such violation or each day of a continuing violation, and up to \$122,500 for any single act or failure to act. <sup>14</sup> Further, as discussed above, such forfeitures may be based on both the conduct that led to the Citation and the conduct following it. <sup>15</sup> In addition, violations of the Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions, <sup>16</sup> as well as criminal sanctions, including imprisonment. <sup>17</sup>

## VII. ORDERING CLAUSES

- 18. **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, Mr. Field must provide the written information requested in paragraphs 3 and 8, above. The response to the request for information must be provided in writing, signed under penalty of perjury by Mr. Field, certifying personal knowledge of the information and representations provided in the written response, and must be received by the FCC within thirty (30) calendar days after the release date of this Citation and Order.
- 19. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested, to Alan Field, at his address of record.

#### FEDERAL COMMUNICATIONS COMMISSION

Charles A. Cooper District Director Los Angeles Office Western Region Enforcement Bureau

<sup>&</sup>lt;sup>14</sup> See 47 U.S.C. §§ 401, 501, 503; 47 C.F.R. § 1.80(b)(7). This amount is subject to further adjustment for inflation (see 47 C.F.R. § 1.80(b)(9)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

<sup>&</sup>lt;sup>15</sup> See supra para. 2.

<sup>&</sup>lt;sup>16</sup> See 47 U.S.C. § 510.

<sup>&</sup>lt;sup>17</sup> See 47 U.S.C. §§ 401, 501.